

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHANZ X. SANTOS, ppa, DENISE COLON,)
DENISE COLON, Individually, JESUS SANTOS,)

Plaintiffs,)

v.)

BOB'S DISCOUNT FURNITURE; REGENT
HOME DELIVERY; AGNILIZ ACOSTAS;
RAUL SANTOS,)

Defendants.)

C.A. No.: 03-

03 12210 MLW

MAGISTRATE JUDGE: Rein

PARTIES

1. Johanz X. Santos, ppa Denise Colon, is a minor child who resides at 1813 North 45th Street, Pennsauken, New Jersey and was, at all times relative to this Complaint, the natural child of Plaintiffs Denise Colon and Jesus Santos.
2. Plaintiff Denise Colon, is an adult individual who resides at 1813 North 45th Street, Pennsauken, New Jersey and was, at all times relative to this Complaint, the natural mother of Plaintiff Johanz X. Santos.
3. Plaintiff Jesus Santos is an adult individual who resides at 1813 North 45th Street, Pennsauken, New Jersey and was, at all times relative to this Complaint, the natural father of Plaintiff Johanz X. Santos.
4. Defendant Agnaliz Acostas is an adult individual who resides at 66 Mattoon Street, Springfield, Hampden County, Massachusetts and was, at all times relative to this Complaint, the owner of a 1987 Buick Regal, MA Registration. No. 9428 NK.
5. Defendant Raul Santos is an adult individual who resides at 66 Mattoon Street, Springfield, Hampden County, Massachusetts and was, at all times relative to this Complaint, the driver of a 1987 Buick Regal, MA Registration. No. 9428 NK, owned by Defendant Agnaliz Acostas.
6. Defendant Bob's Discount Furniture, Inc. is a foreign corporation organized under the laws of the State of Connecticut, with a usual place of business at 135 Memorial Avenue, West Springfield, Hampden County, Massachusetts.

5/627
AMOUNT \$ 150
SUMMONS ISSUED 1/25
LOCAL RULE 4.1
WAIVER FORM
DATE ISSUED
11/10/03

7. Defendant Regent Home Delivery is a foreign business entity and is, on information and belief, a wholly owned subsidiary of Defendant Bob's Discount Furniture, with a usual place of business at 135 Memorial Avenue, West Springfield, Hampden County, Massachusetts.

JURISDICTION

8. The jurisdiction of this Court is based on diversity of citizenship of the parties pursuant to 28 U.S.C. §1391 and the amount in controversy in excess of jurisdictional limits.

FACTS

9. On or about March 30, 2002, a delivery truck owned and/or operated by Bob's Discount Furniture and/or Regent Home Delivery, was parked in a "No Parking" zone in front of an apartment building at 27 Federal Street, Springfield, Massachusetts in violation of the law.

10. On or about March 30, 2002, a 1987 Buick Regal automobile owned by Defendant Agnaliz Acostas and operated by Defendant Raul Santos, was traveling north on Federal Street in Springfield, Massachusetts.

11. At approximately 2:00 P.M. on or about March 30, 2002, while the Defendants' truck was illegally parked in a "No Parking" zone, Plaintiff Johanz X. Santos was struck by the Buick automobile owned by Defendant Acostas and operated by Defendant Raul Santos, sustaining serious injuries, including a skull fracture. The minor Plaintiff was struck by the Defendants as a result of the combined negligence and carelessness of all four Defendants.

COUNT I

Negligence Against Defendants Bob's Discount Furniture Store and Regent Home Delivery by Plaintiff Johanz X. Santos, ppa Denise Colon

12. Plaintiff restates and realleges paragraphs 1 through 11 above as if fully and completely set forth herein.

13. On or about March 30, 2002, Defendants Bob's Discount Furniture and Regent Home Delivery negligently and carelessly parked their vehicle in a "No Parking Zone" thereby negligently blocking the view of drivers traveling north on Federal Street in Springfield, Massachusetts in violation of the law.

14. As a direct and proximate result of the Defendants' negligence, Plaintiff Johanz X. Santos, ppa Denise Colon, was struck by a northbound automobile owned by Defendant Acostas, and suffered serious and permanent injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendants in an amount just and appropriate together with interest and costs.

COUNT II

**Negligent Entrustment Against Defendant Agnaliz
Acostas by Plaintiff Johanz X. Santos, ppa Denise Colon**

15. Plaintiffs restate and reallege paragraphs 1 through 14 above as if fully and completely set forth herein.

16. On or about March 30, 2002, Defendant Agnaliz Acostas negligently entrusted her 1987 Buick automobile to Defendant Raul Santos, who operated the vehicle in so negligent and careless manner as to strike Plaintiff Johanz X. Santos, causing him to suffer serious and permanent injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT III

**Negligence Against Defendant Raul Santos By
Plaintiff Johanz X. Santos, ppa Denise Colon**

17. Plaintiff restates and realleges paragraphs 1 through 16 above as if fully and completely set forth herein.

18. On or about March 30, 2002, Defendant Raul Santos operated a 1987 Buick automobile, owned by Defendant Acostas, in so negligent and careless manner as to strike Plaintiff Johanz X. Santos, causing him to suffer serious and permanent injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT IV

**Loss of Consortium Against Defendant Bob's Discount
Furniture Store by Plaintiff Denise Colon**

19. Plaintiffs restate and reallege paragraphs 1 through 18 above as if fully and completely set forth herein.

20. As a direct and proximate result of the Defendant's negligence, Plaintiff Denise Colon has suffered mental anguish and distress and the loss of consortium and companionship of her son, Plaintiff Johanz X. Santos as a result of the damages suffered by him.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT V

**Loss of Consortium Against Defendant Bob's Discount
Furniture Store by Plaintiff Jesus Santos**

21. Plaintiffs restate and reallege paragraphs 1 through 20 above as if fully and completely set forth herein.

22. As a direct and proximate result of the Defendant's negligence, Plaintiff Jesus Santos has suffered mental anguish and distress and the loss of consortium and companionship of his son, Plaintiff Johanz X. Santos as a result of the damages suffered by him.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT VI

**Loss of Consortium Against Defendant Agnaliz
Acostas by Plaintiff Denise Colon**

23. Plaintiffs restate and reallege paragraphs 1 through 22 above as if fully and completely set forth herein.

24. As a direct and proximate result of the Defendant's negligence, Plaintiff Denise Colon has suffered mental anguish and distress and the loss of consortium and companionship of her son, Plaintiff Johanz X. Santos as a result of the damages suffered by him.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT VII

**Loss of Consortium Against Defendant Agnaliz
Acostas by Plaintiff Jesus Santos**

25. Plaintiffs restate and reallege paragraphs 1 through 24 above as if fully and completely set forth herein.

26. As a direct and proximate result of the Defendant's negligence, Plaintiff Jesus Santos has suffered mental anguish and distress and the loss of consortium and companionship of his son, Plaintiff Johanz X. Santos as a result of the damages suffered by him.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT VIII

**Loss of Consortium Against Defendant Regent Home
Delivery by Plaintiff Denise Colon**

27. Plaintiffs restate and reallege paragraphs 1 through 26 above as if fully and completely set forth herein.

28. As a direct and proximate result of the Defendant's negligence, Plaintiff Denise Colon has suffered mental anguish and distress and the loss of consortium and companionship of her son, Plaintiff Johanz X. Santos as a result of the damages suffered by him.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT IX

**Loss of Consortium Against Defendant Regent
Home Delivery by Plaintiff Jesus Santos**

29. Plaintiffs restate and reallege paragraphs 1 through 28 above as if fully and completely set forth herein.

30. As a direct and proximate result of the Defendant's negligence, Plaintiff Jesus Santos has suffered mental anguish and distress and the loss of consortium and companionship of her son, Plaintiff Johanz X. Santos as a result of the damages suffered by him.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT X

**Loss of Consortium Against Defendant
Raul Santos by Plaintiff Denise Colon**

31. Plaintiffs restate and reallege paragraphs 1 through 30 above as if fully and completely set forth herein.

32. As a direct and proximate result of the Defendant's negligence, Plaintiff Denise Colon has suffered mental anguish and distress and the loss of consortium and companionship of her son, Plaintiff Johanz X. Santos as a result of the damages suffered by him.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT XI

**Loss of Consortium Against Defendant
Raul Santos by Plaintiff Jesus Santos**

33. Plaintiffs restate and reallege paragraphs 1 through 32 above as if fully and completely set forth herein.

34. As a direct and proximate result of the Defendant's negligence, Plaintiff Jesus Santos has suffered mental anguish and distress and the loss of consortium and companionship of her son, Plaintiff Johanz X. Santos as a result of the damages suffered by him.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT XII

**Negligent Infliction of Emotional Distress Against Defendant
Bob's Discount Furniture by Plaintiff Denise Colon**

35. Plaintiff restates and realleges paragraphs 1 through 34 above as if fully and completely set forth herein.

36. On or about March 30, 2002, Defendant Bob's Discount Furniture negligently and carelessly parked its vehicle in a "No Parking Zone" thereby negligently blocking the view of drivers traveling north on Federal Street in Springfield, Massachusetts in violation of the law.

37. As a direct and proximate result of the negligence and carelessness of the Defendant, Plaintiff Denise Colon has been caused to suffer, and continues to suffer, emotional distress with physical manifestations resulting from the injuries inflicted on her son by the Defendant.

WHEREFORE, the Plaintiff demands judgment against the Defendants in an amount just and appropriate together with interest and costs.

COUNT XIII

**Negligent Infliction of Emotional Distress Against Defendant
Regent Home Delivery by Plaintiff Denise Colon**

38. Plaintiff restates and realleges paragraphs 1 through 37 above as if fully and completely set forth herein.

39. On or about March 30, 2002, Defendant Regent Home Delivery negligently and carelessly parked its vehicle in a "No Parking Zone" thereby negligently blocking the view of drivers traveling north on Federal Street in Springfield, Massachusetts in violation of the law.

40. As a direct and proximate result of the negligence and carelessness of the Defendant, Plaintiff Denise Colon has been caused to suffer, and continues to suffer, emotional distress with physical manifestations resulting from the injuries inflicted on her son by the Defendant.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT XIV
Negligent Infliction of Emotional Distress Against Defendant
Agnaliz Acostas by Plaintiff Denise Colon

41. Plaintiff restates and realleges paragraphs 1 through 40 above as if fully and completely set forth herein.

42. On or about March 30, 2002, Defendant Agnaliz Acostas negligently entrusted her 1987 Buick automobile to Defendant Raul Santos, who operated the vehicle in so negligent and careless manner as to strike Plaintiff Johanz X. Santos, causing him to suffer serious and permanent injuries.

43. As a direct and proximate result of the negligence and carelessness of the Defendant, Plaintiff Denise Colon has been caused to suffer, and continues to suffer, emotional distress with physical manifestations resulting from the injuries inflicted on her son by the Defendant.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

COUNT XV
Negligent Infliction of Emotional Distress Against
Raul Santos by Plaintiff Denise Colon

44. Plaintiff restates and realleges paragraphs 1 through 43 above as if fully and completely set forth herein.

45. On or about March 30, 2002, Defendant Raul Santos operated a 1987 Buick automobile, owned by Defendant Acostas, in so negligent and careless manner as to strike Plaintiff Johanz X. Santos, causing him to suffer serious and permanent injuries.

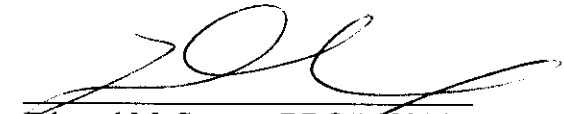
46. As a direct and proximate result of the negligence and carelessness of the Defendant, Plaintiff Denise Colon has been caused to suffer, and continues to suffer, emotional distress with physical manifestations resulting from the injuries inflicted on her son by the Defendant.

WHEREFORE, the Plaintiff demands judgment against the Defendant in an amount just and appropriate together with interest and costs.

PLAINTIFFS DEMAND TRIAL BY JURY

Dated: October 28, 2003

The Plaintiffs,
By Their Attorneys,

A handwritten signature in black ink, appearing to read 'E. Swartz', is written over a horizontal line.

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